REMARKS

Pending claims

For the record, Applicants canceled Claims 21-43 on the Transmittal Sheet for this application filed May 4, 2001. Applicants address in this Response to Restriction Requirement only the Groups which contain pending claims.

Applicants have added Claims 44, 45, and 46 in the instant amendment. Claims 44, 45, and 46 correspond to previously canceled Claims 21, 24, and 25, respectively. For the Examiner's convenience, the correspondence between claims in the original claim set and in the amended claim set is noted below:

Groups	Original Claim Set	Pending Claim Set	Subject Matter
I	1-2 and 15-17	1-2 and 15-17	Polypeptides, compositions, and methods of use
II	3-6, 8, 10-14, and 26-27	3-6, 8, and 10-14	Polynucleotides, vectors, cells, and methods of use
III	7	—	Transgenic organism
IV	9 and 28-43	9	Antibodies and methods of making and use
V	18-20 and 24-25	18 and 45-46	Agonists and methods of screening for and using agonists
VI	21-25	44, 45, 46	Antagonists and methods of screening for and using antagonists

Restriction Requirement

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (Claims 1-2 and 15-17) drawn to SEQ ID NO:1 and compositions and methods of use;

Group II (Claims 3-6, 8, 10-14, and 26-27) drawn to polynucleotides and methods of making and using said polynucleotides;

Group III (Claim 7) drawn to a transgenic organism;

Group IV (Claims 9 and 28-43) drawn to antibodies and methods of making and using said antibodies;

Group V (Claims 18-20 and 24-25) drawn to methods of screening for agonists, agonists, and methods of using said agonist; and

Group IV (Claims 21-25) drawn to methods of screening for antagonists, antagonists, and methods of using said antagonist.

Applicants hereby elect, with traverse, to prosecute Group I, which includes and is drawn to Claims 1-2 and 15-17.

Applicants submit that the inventions encompassed by the claims of Group II, drawn to polynucleotides and methods of making and using said polynucleotides, and Group IV, drawn to antibodies, could be examined at the same time as the invention encompassed by the claims of Group I without undue burden on the Examiner. For example, a search of the prior art to determine the novelty of the polypeptides of Group I would provide information regarding the novelty of the polynucleotides and methods of making and using said polynucleotides of Group II and the antibodies of Group IV.

Applicants submit that Claim 8 is a method of making the polypeptides of Group I and Claims 18, 44, 45, and 46 (Group V) and Claims 44, 45, and 46 (Group VI) are methods of using the polypeptides of Group I, which should be examined together with the polypeptides of Group I, per the Commissioner' s Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of process claims covering the same scope of products.

Applicants further traverse on the grounds that the Examiner could also examine the claims of Group II without undue burden, in view of the fact that they are related to, although of different scope from, claims already allowed in the parent application Ser. No. 08/822,260, filed March 20, 1997, now U.S. Patent Application No. 5,830,660. For the Examiner's convenience, those claims are as follows:

1. An isolated and purified polynucleotide sequence encoding a polypeptide having the amino acid sequence of SEQ ID NO: 1.

2. An isolated and purified polynucleotide sequence comprising SEQ ID NO:2.

3. An isolated and purified polynucleotide sequence which is complementary to the polynucleotide sequence of claim 1.

4. An expression vector containing the polynucleotide sequence of claim 1.

5. A host cell containing the vector of claim 4.

6. A method for producing a polypeptide comprising the amino acid sequence of SEQ ID NO: 1 the method comprising the steps of:

a) culturing the host cell of claim 5 under conditions suitable for the expression of the polypeptide; and

b) recovering the polypeptide from the host cell culture.

7. A method for detection of a polynucleotide which encodes a polypeptide comprising the amino acid sequence of SEQ ID NO: 1 in a biological sample containing nucleic acid material, the method comprising the steps of:

a) hybridizing the polynucleotide of claim 3 to nucleic acid material of a biological sample, thereby forming a hybridization complex;

b) washing under stringent wash conditions of 0.1 x saline sodium citrate and 0.5% sodium dodecyl sulfate, and

c) detecting said hybridization complex, wherein the presence of said complex correlates with the presence of a polynucleotide encoding the tumorigenesis protein in said biological sample.

Applicants additionally submit that in any case, there is minimal additional burden on the Examiner to examine the claims of Group II in addition to the claims of Group I, particularly in view of the additional burden on Applicants to file, prosecute and maintain yet additional applications in this family, and respectfully request that the Examiner consider doing so.

Accordingly, because the search required to identify prior art relevant to the claims of Groups I, II, IV, V, and VI would substantially overlap, Applicants respectfully submit that examination of Claims 1-6, 8-18, and 44-46, would pose no undue burden. Thus, Applicants request reconsideration and withdrawal of the Restriction Requirement and examination of Claims 1-6, 8-18, and 44-46.

It is noted that, while Applicants have canceled and not repeated new versions of Claims 7 and 19-20, Applicants expressly assert that these claims have been canceled for reasons relating to cost and efficiency of prosecution of the presently elected claims, and not for reasons relating to patentability. Applicants further expressly reserve the right to pursue the subject matter of those canceled claims, the subject matter of non-elected claims, or any other subject matter disclosed but not herein claimed, in a later continuation or divisional application.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,
INCYTE GENOMICS, INC.

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Susan K. Sather
Reg. No. 44,316
Direct Dial Telephone: (650) 845-4646

3160 Porter Drive
Palo Alto, California 94304
Phone: (650) 855-0555
Fax: (650) 849-8886

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 7, 19, and 20 have been canceled.

Claims 44, 45, and 46 have been added.